

1 Daniel B. Halpern & Tammra L. Halpern
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5 Defendants, In Pro Per

FILED

MAY 18 2010 *2P*

CLERK
United States Bankruptcy Court
San Jose, California

6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8

9 In re:

10 DANIEL B. HALPERN and
11 TAMMRA L. HALPERN

12 Debtors.

13 MOHAMED POONJA, Trustee,

14 Plaintiff,

15 v.

16 DANIEL B. HALPERN and
17 TAMMRA L. HALPERN,

18 Defendants.
19

Case No.: 09-53115 MM

Chapter 7

**ANSWER TO COMPLAINT TO BAR
AND/OR REVOKE DEBTORS'
DISCHARGE**

AP No.: 10-5092

20 **COMES NOW** defendants, DANIEL B. HALPERN and TAMMRA L. HALPERN, and in
21 response to Plaintiff's Complaint To Bar And/Or Revoke Debtors' Discharge filed herein, admit,
22 deny and allege as follows:

- 23 1. The answering defendants make no answer to the allegations in paragraphs 1
24 and 2 as they are legal conclusions and require no answers.
- 25 2. The answering defendants admit the allegations in paragraphs 3, 4, 5, 6, and 7.
- 26 3. The answering defendants make no answer to the allegation in paragraph 8 as it
27 is a legal conclusion and requires no answer.
- 28 4. The answering defendants deny knowledge or information sufficient to form a

1 belief as to the truth of the allegations in paragraph 9, and therefore deny such allegation.

2 5. The answering defendants make no answer to the allegations in paragraphs 10,
3 11, and 12 as they are legal conclusions and require no answer.

4 6. The answering defendants deny the allegations in paragraph 13.

5 7. The answering defendants admit the first sentence of the allegations in
6 paragraph 14, but deny the second sentence.

7 8. The answering defendants admit that "An Examination of Mr. Halpern finally took
8 place on January 13, 2010." The answering defendants deny knowledge or information
9 sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 15,
10 and therefore deny such allegations.

11 9. The answering defendants deny knowledge or information sufficient to form a
12 belief as to the truth of the allegations in paragraph 16, and therefore deny such allegation.

13 10. The answering defendants make no answer to the allegations in paragraph 17 as
14 they are legal conclusions and require no answer.

15 11. The answering defendants repeat and re-allege the answers to paragraphs 1
16 through 17 as if fully set forth herein in response to paragraph 18.

17 12. The answering defendants deny knowledge or information sufficient to form a
18 belief as to the truth of the allegations in paragraph 19, and therefore deny such allegations.

19 13. The answering defendants deny knowledge or information sufficient to form a
20 belief as to the truth of the allegation in paragraph 20, and therefore deny such allegation.

21 14. The answering defendants repeat and re-allege the answers to paragraphs 1
22 through 17 as if fully set forth herein in response to paragraph 21.

23 15. The answering defendants deny knowledge or information sufficient to form a
24 belief as to the truth of the allegations in paragraph 22, and therefore deny such allegations.

25 16. The answering defendants repeat and re-allege the answers to paragraphs 1
26 through 22 as if fully set forth herein in response to paragraph 23.

27 17. The answering defendants deny knowledge or information sufficient to form a
28 belief as to the truth of the allegations in paragraph 24, 25, 26, 27, and 28, and therefore deny

1 such allegations.

2 18. The answering defendants repeat and re-allege the answers to paragraphs 1
3 through 28 as if fully set forth herein in response to paragraph 29.

4 19. The answering defendants deny knowledge or information sufficient to form a
5 belief as to the truth of the allegations in paragraphs 30 and 31, and therefore deny such
6 allegations.

7 20. The answering defendants repeat and re-allege the answers to paragraphs 1
8 through 17 as if fully set forth herein in response to paragraph 32.

9 21. The answering defendants deny knowledge or information sufficient to form a
10 belief as to the truth of the allegations in paragraphs 33 and 34, and therefore deny such
11 allegations.

12 22. The answering defendants repeat and re-allege the answers to paragraphs 1
13 through 17 as if fully set forth herein in response to paragraph 35.

14 23. The answering defendants deny the allegations in paragraphs 36 and 37.

15 24. The answering defendants repeat and re-allege the answers to paragraphs 1
16 through 17 as if fully set forth herein in response to paragraph 38.

17 25. The answering defendants deny the allegations in paragraphs 39 and 40.

18 26. The answering defendants repeat and re-allege the answers to paragraphs 1
19 through 17 as if fully set forth herein in response to paragraph 41.

20 27. The answering defendants deny knowledge or information sufficient to form a
21 belief as to the truth of the allegations in paragraphs 42 and 43, and therefore deny such
22 allegations.

23 **FIRST AFFIRMATIVE DEFENSE**

24 (Waiver)

25 28. These answering defendants are informed and believe, and thereon allege, that
26 plaintiff has engaged in conduct that constitutes a waiver of rights, and by reason of such
27 waiver, defendants were excused from further performance.

1 **SECOND AFFIRMATIVE DEFENSE**

2 (Estoppel)

3 29. Defendants are informed and believe, and thereon allege, that by reason of the
4 conduct of plaintiff, plaintiff is estopped to assert a right to relief against these answering
5 defendants.

6 **THIRD AFFIRMATIVE DEFENSE**

7 (Release)

8 30. Defendants are informed and believe, and thereon allege, that the plaintiff's
9 actions constitute a full release and waiver of any and all claims which may have existed
10 against these answering defendants.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 (Consent)

13 31. Plaintiff approved of, ratified or acquiesced in the conduct of defendants at all
14 times mentioned in the complaint. Plaintiff is therefore barred from recovery as a result of any
15 conduct on the part of defendants, if any, because of plaintiff's approval, ratification or
16 acquiescence in that conduct.

17 **FIFTH AFFIRMATIVE DEFENSE**

18 (Failure to Mitigate Damages)

19 32. At all times relevant hereto, the responding defendants allege that plaintiff could
20 have, by the exercise of reasonable diligence, limited or prevented its own damages, if any, as
21 a result of the occurrence(s) alleged in the Complaint and has failed or refused to do so. Such
22 failure or refusal on the part of the plaintiff constitutes a failure to mitigate damages.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 (Laches)

25 33 Defendants are informed and believe, and thereon allege, that plaintiff
26 unreasonably delayed bringing suit against defendants, thereby prejudicing defendants' rights.
27 Therefore, all of the equitable causes of action of the Complaint are barred by the doctrine of
28 laches.

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 (Unclean Hands)

3 34. Defendants are informed and believe, and thereon allege, that plaintiff engaged
4 in inequitable conduct, which conduct constitutes unclean hands, and by engaging in said
5 conduct, plaintiff is, therefore, barred from seeking equitable relief upon such causes of action
6 contained in plaintiff's Complaint.

7 **EIGHTH AFFIRMATIVE DEFENSE**

8 (Good Faith)

9 35. At all times material herein, defendants acted toward the plaintiff reasonably and
10 in good faith.

11 **NINTH AFFIRMATIVE DEFENSE**

12 (Reservation of Rights)

13 36. Defendants specifically reserve the right to amend their answer and any
14 affirmative defenses alleged herein as allowed and permitted under United States and
15 California law.

16 **PRAYER FOR RELIEF**

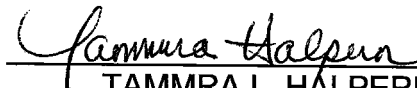
17 **WHEREFORE**, these answering defendants pray:

- 18 1. That plaintiff take nothing by his Complaint on file herein and that the same be
19 dismissed;
20 2. For reasonable attorney's fees;
21 3. For costs of suit incurred herein; and
22 4. For such other and further relief as the Court may deem just and proper.

23 Dated: May 17, 2010

24 

DANIEL B. HALPERN
In Pro Per

25 

TAMMRA L. HALPERN
In Pro Per

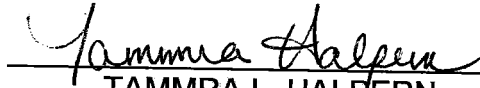
DEMAND FOR JURY

Defendants demand a trial by jury.

Dated: May 17, 2010



DANIEL B. HALPERN
In Pro Per



TAMMRA L. HALPERN
In Pro Per